

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MARK KOMAR,

Plaintiff,

- v -

1:23-CV-428
(FJS/DJS)

SKS BOTTLE & PACKAGING, INC. and
KATHLEEN A. DEQUIRE,

Defendants.

ORDER

On October 29, 2024, counsel for Defendants filed a Motion Withdraw as Counsel. Dkt. No. 33. Several weeks later, different counsel filed a Suggestion of Bankruptcy on behalf of SKS Bottle & Packaging. Dkt. No. 36, but did not note their appearance as counsel in this action. The District Court subsequently granted the Motion to Withdraw. Dkt. No. 39. To date, no new counsel has appeared on behalf of either Defendant. As a corporation, however, SKS Bottle & Packaging must appear in this action through counsel. *Lattanzio v. COMTA*, 481 F.3d 137, 140 (2d Cir. 2007); *Pecarsky v. Galaxiworld.com Ltd.*, 249 F.3d 167, 172 (2d Cir. 2001). SKS Bottle & Packaging, therefore, is directed to retain counsel and that counsel shall file a notice of appearance within thirty days.¹

The Court notes that as a result of the pending bankruptcy proceeding, a stay of proceedings in this action is warranted under 11 U.S.C. § 362. This stay, however, does not stay the above direction that counsel appear for SKS in this action. Should new counsel for Defendant

¹ The Court held a status conference regarding this matter on March 5, 2025 at which Attorney Matthew Zapala, bankruptcy counsel for SKS appeared. Mr. Zapala specifically noted that he was not appearing as counsel in this action, but did agree to forward this Order to the principal of SKS following the conference. The Court acknowledges and appreciates Mr. Zapala's assistance.

not enter an appearance within that time period, the Court will, when the stay is terminated, entertain a Motion to Strike Defendant's Answer. *See Max Ten Mktg., LLC v. MarkeTech, Inc.*, 2013 WL 12155520, at *2 (D.N.J. July 24, 2013).

ACCORDINGLY, it is hereby

ORDERED, that the SKS Bottle and & Packaging, Inc. shall retain counsel and said counsel shall file a notice of appearance within thirty (30) days; and it is further

ORDERED, that further proceedings in this action are stayed pending resolution of the SKS bankruptcy proceeding; and it is further

ORDERED, the parties be provided with a copy of this Order.

IT IS SO ORDERED.

Dated: March 12, 2025
Albany, New York



Daniel J. Stewart
U.S. Magistrate Judge